

Cemetery Board Minutes
April 14, 2020
Via WebEx

BOARD MEMBERS PRESENT:

Mark Pattison, Department of State, Chair
Jill Faber, Office of the New York Attorney General
Thomas Fuller, Department of Health

OTHER ATTENDEES

Lewis Polishook, Division of Cemeteries
Antonio Milillo, Dep't of State, Counsel
Robert Vanderbles, Dep't of State, Counsel
Alicia Young, Division of Cemeteries
Brendan Stanton, Division of
Cemeteries
Joshua Beams, Dep't of State

Michael Seelman, Division of Cemeteries
Kerry McGovern, Division of Cemeteries
Andrew Hickey, Division of Cemeteries
Joseph Ambrose, Division of Cemeteries
Kathleen Richardson, Division of
Cemeteries
John Fatato, Dep't of State

GUESTS:

David Fleming, NYSAC, Featherstonhaugh, Wiley & Clyne
Brendon Boyle, NYSAC, FWC
Bruce Geiger, Bruce Geiger & Assocs. for Pinelawn Memorial Park
John Locke, Pinelawn Memorial Park
Nicholas DiBartolo, Mt. Hope Cemetery, Hastings on the Hudson
Nate Romagnola, White Haven Memorial Park
Emily Zhang, Citizen

Opening Remarks

Messrs. Pattison and Milillo explained the procedure for holding this meeting via WebEx.

20-04-A-19 Minutes of Previous Meeting

Motion made, seconded, and unanimously adopted approving as submitted the minutes of the Board's March 10, 2020 meeting, without change.

20-04-B-20 Legislation and Regulations

1. Pending Legislation

Mr. Milillo provided the legislative report. He indicated that A.7652/S.5591 has advanced to third reading in the Senate.

A9839/S7822, having to do with "natural organic reduction" of human remains, has been introduced in both houses, no action has been taken.

2. Rules and Regulations

No activity. Mr. Polishook reported that the Board had authorized the Division to share the Department's bullet points for a regulation concerning abandonment with stakeholders and that he would do so.

20-04-C-21 Division Report

Director Polishook reports that the COVID-19 pandemic is having an impact on regulated cemeteries and crematories, especially in the downstate region. Crematories downstate are experiencing a significant increase in volume.

The Division has posted guidance on its website regarding safe handling of remains, graveside services and social distancing, and remote completion of forms for authorization and disposition. The Division has implemented a daily report from crematories via Microsoft Forms in order to monitor capacity and concerns related to the COVID -19 pandemic.

Director Polishook mentioned that the two new retorts at Mount Pleasant Cemetery in Suffolk county, which were approved at a special meeting of the New York State Cemetery Board on April 7, 2020, had arrived and were being installed, and would be operational by the end of this week.

Central Crematory in Cortland County experienced a fire at a vault company next door. Electricity to the crematory was shut down and the crematory is currently offline.

Director Polishook addressed previous comments made at the Special Board meeting by David Fleming (NYSAC) regarding PM loan forgiveness or delayed payments for certain cemeteries, saying those cemeteries who wish to be considered for some type of loan restructuring should get in touch with the Division.

Annual report update:

The Division has received 962 annual reports so far this year. 317 of those annual reports received were filed online, representing 33% of all reports filed. Extension requests have increased 25% over last year at this time.

This year the Division is granting 60-day extensions for annual reports to any cemetery that asks. If cemeteries need more time they can contact the Division and explain why.

20-04-D-22 Vandalism, Abandonment and Monument Repair or Removal Fund Report

So far in the 2020 calendar year the Division has collected \$401,182.00 in vandalism funds. Assessment collections total \$225,220.00.

In the 2020 fiscal year, beginning April 1, 2020, vandalism funds collected total \$16,850.00, and assessment funds \$8,388.00.

The entire 2019-2020 budgeted \$2 million was spent by March 31, 2020.

There are \$776,397.00 in outstanding applications from previous years that will be paid from the current appropriation. This leaves approximately \$1.2 for 2020-2021 applications.

There are no vandalism fund applications on the agenda this month.

20-04-E-23 Ballston Spa Cemetery (46-003) Columbarium Application

Ballston Spa Cemetery wishes to install a 60-niche columbarium unit. The cemetery does not have any columbariums at present and they say there is a demand for columbarium space. The cemetery has fewer than 6 acres left for sale and feel this is a good way to increase burial space and options. Mr. Milillo expressed concern about the cemetery's financial viability, noting it operates at a loss every year and is constantly running at deficit. There was discussion between Mr. Milillo and Andrew Hickey, Senior Accountant, re: the cemetery's Special Fund, and its finances. It was noted the cemetery does have a conflict of interest policy in place, regarding a bid for this project by a cemetery board member. Questions regarding projected sales of columbarium niches were addressed. Motion made, seconded, and unanimously adopted approving the application.

20-04-F-24 Leatherstocking Crematory (39-050) New Retort

The Leatherstocking Crematory wishes to replace a retort. This application first went before the Board in January, 2020. The crematory was found to be not in compliance at that time, additional documents were needed. The concerns were 1. Non-employees received compensation per cremation, in possible violation of the prohibition on paying commissions to non-employees; 2. There were no independent trustees, so the lease between the crematory and affiliated funeral home could not be reviewed in compliance with the Nonprofit Revitalization Act; and 3. The crematory had not submitted audited financials. There was also concern about the size of the loan to finance the retort and the interest rate. Mr. Polishook addressed these concerns, reporting that the crematory is now paying non-employees a fixed amount, instead of per cremation. The crematory has retained an auditor and says it will submit audited financials to the Division by the end of April. He stated that if approved, the retort could be replaced in two or three weeks. Independent trustees had joined the board but no formal meeting had occurred because of COVID-19. Mr. Milillo expressed concerns regarding the delinquency of cemetery financial statements and asked how it would be able to catch up and return to compliance. Senior Accountant Hickey voiced his confidence in the CPA who was retained by the crematory that financials would be submitted and reviewed. Mr. Polishook stressed the need for cremation capacity given the current situation. Jill Faber inquired as to whether the Board should wait until the crematory had complied with the three issues raised before approving the application. Mark Pattison stated that due to the current pandemic situation, it would be prudent to be lenient with any delinquency of annual reports.

Motion was made, seconded, and unanimously adopted approving the application.

Public Comment

David Fleming of the New York State Association of Cemeteries addressed the Cemetery Board, thanking Lewis Polishook and Thomas Fuller for their help and dedication in dealing with the coronavirus pandemic, which is greatly impacting cemeteries and crematories, especially in the New York City area. Mr. Fleming expressed his great concern with the backlog and the lack of refrigeration capacity for storage of bodies, the possibility of temporary interments, and especially the lack of cremation capacity, saying we do not have enough crematory capacity in the entire State of New York. Mr. Fleming stated that PPE had become extremely hard to come

by and expressed thanks to Mr. Polishook and State Emergency Management teams in their response to this crisis.

The April meeting of the New York State Cemetery Board was adjourned at 11:40 AM without going into executive session.

The next meeting is scheduled for May 12, 2020, at 10:30 a.m., via Webex.